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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 UNITED STATES OF AMERICA

5 v.

22 CR 652 (ER)
Plea

6 OBIOMA IWOBI

7 Defendant

8 -----x

9 New York, N.Y.
10 December 5, 2022
11 11:10 a.m.

12 Before:

13 HON. EDGARDO RAMOS

District Judge

14 APPEARANCES

15 DAMIAN WILLIAMS

United States Attorney for the
Southern District of New York

16 JOSIAH PERTZ

Assistant United States Attorney

17 OKEKE & NWOKORO LLP

Attorney for Defendant

18 PATRICK OKEKE

19 ALSO PRESENT

VIOSANY HARRISON, USPT (SDNY)

20 JUSTIN ELLARD, Special Agent (USAO - SDNY)

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(In open court; case called)

DEPUTY CLERK: Counsel, please state your name for the record.

MR. PERTZ: Good morning, your Honor. Josiah Pertz for the government. Here with me is AUSA Special Agent Justin Ellard.

THE COURT: Good morning.

Who else is at the table?

MS. HARRISON: Pretrial Services. Viosany Harrison for pretrial.

THE COURT: Good morning.

MR. OKEKE: Good morning, your Honor. Patrick Okeke, O-K-E-K-E, for the defendant, Mr. Iwobi.

THE COURT: Good morning to you all.

Mr. Pertz, what are we doing? By the way, you can remain seated. You don't have to stand.

MR. PERTZ: Thank you, your Honor.

The defendant is appearing today before the Court for the first time and would like to plead to an information.

THE COURT: How do I pronounce your last name, sir? Iwobi?

THE DEFENDANT: Yes, sir.

THE COURT: Mr. Iwobi -- first of all, let me confirm with Mr. Okeke.

MR. OKEKE: Yes.

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1 THE COURT: Do you confirm that Mr. Iwobi wishes to
2 plead guilty pursuant to an information?

3 MR. OKEKE: Yes, your Honor.

4 THE COURT: Very well.

5 Mr. Iwobi, your attorney has advised me that you wish
6 to plead guilty. I'm happy to take your plea, but before I do
7 that, I need to ask you a series of questions, and, in
8 particular, I'm trying to determine in the first instance that
9 you understand what is going on here today and the consequences
10 of pleading guilty.

11 I'm also trying to determine whether you are in fact
12 guilty of the crime to which you wish to plead guilty. In
13 order to make those determinations, I need to ask you a series
14 of questions, and it is vitally important that you be
15 absolutely truthful, so I'm going to place you under oath,
16 okay?

17 (Defendant sworn)

18 THE COURT: Mr. Iwobi, you may be seated and you may
19 remain seated for the balance of this proceeding.

20 First of all, sir, you are now under oath, and do you
21 understand that if you answer any of my questions falsely, your
22 answers could be used against you in a prosecution for perjury
23 or for making a false statement?

24 THE DEFENDANT: Yes, my lord.

25 THE COURT: Now, as I indicated, I'm going to ask you

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1 some questions. If I ask you a question and you don't
2 understand it, just let me know that, and I'll rephrase it. Or
3 if I ask you a question and you wish to speak with your
4 attorney before you answer it, you can let me know that, and
5 I'll accommodate you, okay?

6 THE DEFENDANT: Yes, my lord.

7 THE COURT: I'm going to start with some background
8 questions. Sir, what is your full name?

9 THE DEFENDANT: Obioma Iwobi.

10 THE COURT: How old are you, sir?

11 THE DEFENDANT: 42 years old.

12 THE COURT: How far did you get in school?

13 THE DEFENDANT: A master's. I dropped out of a
14 master's degree. Well, I have my bachelor's, then dropped out
15 of my master's, yeah.

16 THE COURT: Are you able to read and write in English?

17 THE DEFENDANT: Correct. Yes.

18 THE COURT: Are you now or have you recently been
19 under the care of a doctor or psychiatrist?

20 THE DEFENDANT: No.

21 THE COURT: Have you ever been treated or hospitalized
22 for any mental illness or any type of addiction, including drug
23 or alcohol addiction?

24 THE DEFENDANT: Alcohol, anxiety, though -- but not
25 diagnosed with alcoholism though.

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1 THE COURT: So have you ever been in a program for
2 alcoholism?

3 THE DEFENDANT: No.

4 THE COURT: In the past 24 hours, have you taken any
5 drugs, medicine, or pills, or have you consumed any alcohol?

6 THE DEFENDANT: No.

7 THE COURT: Is your mind clear today?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Mr. Iwobi, are you feeling well enough to
10 proceed and to understand what is going on here today?

11 THE DEFENDANT: Yes, my lord. Yeah.

12 THE COURT: Now, sir, your attorney has informed me
13 that you wish to waive indictment and enter a plea of guilty.
14 Is that correct?

15 THE DEFENDANT: Yes, my lord.

16 THE COURT: Sir, have you had a full opportunity to
17 discuss your case with Mr. Okeke, including any possible
18 defenses that you might have?

19 THE DEFENDANT: I'm sorry, repeat that one more time,
20 your Honor?

21 THE COURT: Yes, sir.

22 Have you had a full opportunity to discuss your case
23 with your attorney, including any possible defenses that you
24 might have?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: And have you had a full opportunity to
2 discuss with him the consequences of entering a plea of guilty?

3 THE DEFENDANT: Yes, my lord.

4 THE COURT: Sir, are you satisfied with Mr. Okeke and
5 his representation of you?

6 THE DEFENDANT: Yes, my lord. Yes.

7 THE COURT: Now, does either counsel have any doubt as
8 to Mr. Iwobi's competence to waive indictment and enter a plea
9 of guilty at this time?

10 MR. PERTZ: No, your Honor.

11 MR. OKEKE: No, your Honor.

12 THE COURT: On the basis of Mr. Iwobi's answers to my
13 questions and my observations of his demeanor, I find that he
14 is fully competent to waive indictment and enter a guilty plea
15 at this time.

16 The first thing that we need to deal with, sir, is --
17 do we have the waiver of indictment?

18 Is this the waiver? Sir, have you received a copy of
19 the information in this case?

20 THE DEFENDANT: Yes, sir. Yes, your Honor.

21 THE COURT: And have you discussed the information
22 with your attorney?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Sir, do you understand that this
25 information is a felony information?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: And, sir, because the charges in this
3 information are serious, indeed, they are felonies, you have a
4 constitutional right to require the government to present
5 evidence to a grand jury to see whether the grand jury would
6 vote to charge you with that offense. Do you understand that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Mr. Iwobi, do you understand that a grand
9 jury is a group that is made up of at least 16, but not more
10 than 23, citizens, and at least 12 of them would have to agree
11 that there was probable cause to believe that this crime was
12 committed and that you committed it before you could be
13 indicted for this crime. Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: And if the grand jury voted to charge you,
16 the document they issue would be called an indictment, and it
17 would be signed both by the foreperson of the grand jury and by
18 the U.S. Attorney. Do you understand that?

19 THE DEFENDANT: Yes, my lord.

20 THE COURT: And, Mr. Iwobi, do you wish to have your
21 case presented to the grand jury -- or, rather, do you wish to
22 give up your right to have your case presented to the grand
23 jury?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: And did you discuss that decision

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1 thoroughly with your lawyer?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Now, I have been provided with a document
4 called a waiver of indictment dated November 11 of 2022. It
5 has a couple of signatures, including one that purports to be
6 yours. Can you see that from where you are seated?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Is that your signature on this document?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: This will be marked Court Exhibit 1.

11 Sir, when you signed this document, did you sign it
12 voluntarily?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: And before you signed it, did you discuss
15 it with your attorney?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: When you signed it, did you understand
18 that you were acknowledging your willingness to give up your
19 right to be indicted by a grand jury?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Did anyone threaten you or force you to
22 give up that right?

23 THE DEFENDANT: No, your Honor.

24 THE COURT: Very well. I find that Mr. Iwobi has
25 knowingly and voluntarily waived his right to be indicted by

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1 the grand jury, and the information will be accepted for
2 filing.

3 Mr. Okeke, do you wish me to read the information
4 publicly?

5 MR. OKEKE: No, your Honor. I'll waive it.

6 THE COURT: Very well.

7 Mr. Iwobi, do you understand that you are charged in
8 the information with conspiracy to commit wire fraud?

9 THE DEFENDANT: Yes.

10 THE COURT: Mr. Pertz, what are the elements of that
11 offense?

12 MR. PERTZ: In order to prove the defendant guilty of
13 conspiracy to commit wire fraud, the government would have to
14 prove the following elements beyond a reasonable doubt:

15 First, the defendant conspired with at least one other
16 person to commit wire fraud; and,

17 Second, the defendant did so knowingly and @willfully.

18 The elements of wire fraud under Title 18 U.S. Code,
19 Section 1343 are as follows:

20 First, there was a scheme or an artifice to defraud or
21 to obtain money or property by materially false and fraudulent
22 pretenses, representations or promises.

23 Second, that the defendant knowingly and willfully
24 participated in the scheme or artifice to defraud with
25 knowledge of its fraudulent nature and with specific intent to

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1 defraud or that he knowingly and intentionally aided and
2 abetted others in the scheme.

3 Third, that in execution of that scheme, the defendant
4 used or caused the use of interstate wires, and, in addition,
5 the government would have to prove by a preponderance that
6 venue is proper in the Southern District of New York.

7 THE COURT: Thank you, Mr. Pertz.

8 Mr. Iwobi, did you hear what the prosecutor said?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Sir, do you understand that if you did not
11 plead guilty to this count, the government would have to prove
12 each and every one of those elements beyond a reasonable doubt
13 at trial?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Mr. Iwobi, have you discussed with
16 Mr. Okeke the possible punishment that you face if you were to
17 plead guilty to this charge?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: So, do you understand that this charge
20 carries a maximum term of imprisonment of 20 years?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: And a maximum term of supervised release
23 of three years?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: And, in addition, there are financial

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1 penalties, including a \$100 special assessment, which I must
2 impose, and a fine that I could impose that can be the higher
3 of either \$250,000 or twice the gross gain from the offense or
4 the twice the gross loss to any victim of the offense. Do you
5 understand that?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: And I mentioned the term supervised
8 release. Do you understand that supervised release means that
9 you will be subject to monitoring and supervision when you are
10 released from prison, if you are sentenced to a prison term?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: And that there are terms and conditions of
13 supervised release with which you must comply. And if you do
14 not comply with them, you could be returned to prison without a
15 jury trial. Do you understand?

16 THE DEFENDANT: Yes, my lord.

17 THE COURT: Do you understand that if you do violate
18 the terms or conditions of supervised release and are returned
19 to prison, that new prison term could be for part or all of the
20 term of supervised release, and that you will not receive
21 credit for time previously served in prison or for time
22 previously served on a violation of supervised release?

23 THE DEFENDANT: Yes, my lord, I understand.

24 THE COURT: And do you also understand that as part of
25 your sentence, I can also order restitution to any person

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1 injured as a result of your conduct? Do you understand that?

2 THE DEFENDANT: Yes, my lord, I understand.

3 THE COURT: Sir, do you also understand that if I
4 accept your guilty plea and find you guilty, that determination
5 may deprive you of certain valuable civil rights, such as the
6 right to vote, the right to hold public office, the right to
7 serve on a jury, the right to possess any kind of firearm and
8 the right to hold certain professional licenses. Do you
9 understand?

10 THE DEFENDANT: Yes, my lord, I understand.

11 THE COURT: Now, Mr. Iwobi, the next series of
12 questions that we need to go over concern the rights that you
13 are giving up by pleading guilty, including your constitutional
14 rights. So, again, do listen very carefully.

15 First, you have the right to be represented by an
16 attorney at trial and at every other stage of the proceeding.
17 If you cannot afford an attorney, an attorney would be
18 appointed to represent you without cost to you. Do you
19 understand that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: You have a right to a speedy and public
22 trial by a jury on the charges against you which are contained
23 in the information. Do you understand that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: At trial, you would be presumed innocent,

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1 and the government would be required to prove you guilty by
2 competent evidence beyond a reasonable doubt before you could
3 be found guilty. You would not have to prove that you were
4 innocent at trial. Do you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: If there were a jury trial, the jury would
7 be composed of 12 people selected from this district and all 12
8 would have to agree unanimously that you were guilty before you
9 could be found guilty. Do you understand?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: At trial, you would have the right to see
12 and hear all of the witnesses against you, and your attorney
13 could cross-examine them. Your attorney could object to the
14 government's evidence and offer evidence on your behalf.

15 You would also have the right to have subpoenas issued
16 to compel witnesses to come to court to testify in your
17 defense. Do you understand that?

18 THE DEFENDANT: Yes my lord.

19 THE COURT: At trial, you would have the right to
20 testify if you wanted to, but no one could force you to
21 testify. And if you chose not to testify, I would tell the
22 jury that it could not hold that against you. Do you
23 understand?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: If you were convicted at trial, you would

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1 have the right to appeal that verdict. Do you understand?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Sir, do you also understand that by
4 entering a plea of guilty here today, you are giving up all of
5 the rights that I have just described, except for your right to
6 counsel, and you will be found guilty based solely on your plea
7 of guilty here today? Do you understand that, sir?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Mr. Iwobi, do you understand that you can
10 change your mind right now for any reason and decide that you
11 did not want to enter a plea of guilty?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Now, sir, are you a United States citizen?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Now, the next series of questions that we
16 need to go over involve the Sentencing Guidelines. So let me
17 begin by asking you, do you understand that there are
18 Sentencing Guidelines that I must consider in determining the
19 appropriate sentence in your case?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: And have you spoken with your lawyer about
22 how the guidelines apply to your case?

23 THE DEFENDANT: Yes, I have, my lord.

24 THE COURT: Mr. Iwobi, do you understand that I have
25 to calculate the applicable guidelines range and then consider

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1 that range in determining what your sentence will be?

2 THE DEFENDANT: Yes, my lord.

3 THE COURT: And do you also understand that I will not
4 be able to determine what your guidelines range will be until
5 after a presentence report has been drafted by the U.S.
6 Probation Office, and both you and your attorney and the
7 government have had a chance to review and comment on that
8 draft report?

9 THE DEFENDANT: Yes, my lord.

10 THE COURT: Do you further understand that even after
11 I calculate the applicable guidelines range, I have the ability
12 to impose a sentence that can be higher or lower than what the
13 guidelines recommend? Do you understand that?

14 THE DEFENDANT: Yes, my lord.

15 THE COURT: And, Mr. Iwobi, do you also understand
16 that in addition to determining the applicable guidelines
17 range, I also have to consider a number of other factors set
18 forth in a law known as Title 18 of the United States Code,
19 Section 3553(a), which require me to consider, among other
20 factors, your history and characteristics and the nature of the
21 offense in determining the appropriate sentence in your case.
22 Do you understand that?

23 THE DEFENDANT: Yes, my lord.

24 THE COURT: So even after I determine the guidelines
25 range, I must also consider these other factors, and, again, I

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1 might settle on a sentence higher or lower than what the
2 guidelines recommend. Do you understand that?

3 THE DEFENDANT: Yes, my lord.

4 THE COURT: Sir, do you understand that if your
5 attorney or anyone else has attempted to estimate or predict
6 what your sentence will be, their estimate or prediction could
7 be wrong?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: And, sir, while it is perfectly
10 appropriate for you and your attorney to have discussed how the
11 sentence will be calculated, no one can give you any assurance
12 of what your sentence will be. Do you understand that?

13 THE DEFENDANT: Yes, my lord.

14 THE COURT: Mr. Iwobi, I say all of this to you
15 because you need to understand today that if your sentence is
16 different from what your attorney or anyone else told you it
17 might be, or if it is different from what you expect, or if it
18 is different from what is contained in your agreement with the
19 government, you will still be bound by your guilty plea, and
20 you will not be allowed to withdraw your guilty plea. Do you
21 understand that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Sir, do you understand that if you are
24 sentenced to prison, there is no parole in the federal system,
25 and you will not be released early on parole. Do you

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1 understand that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Now, the next series of questions that we
4 need to go over involve your agreement with the government. I
5 have been given a document. It's dated November 7, 2022. It
6 has two exhibits. The letter itself is six pages, and, again,
7 there are a number of signatures on page 6. I'm going to raise
8 that up. Do you see that from where you're seated, and is that
9 your signature on this page?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: So this will be marked as Court Exhibit 2.

12 Mr. Iwobi, did you read this agreement before you
13 signed it?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Did you discuss it with your attorney
16 before you signed it?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Did you fully understand the agreement
19 when you signed it?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Does this letter include your
22 understanding of the entire agreement between you and the
23 government?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Is there any other agreement or any other

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1 promise about your plea or your sentence that is not contained
2 in this agreement?

3 THE DEFENDANT: Yes, your Honor -- yes.

4 THE COURT: Okay. Let me ask that again.

5 Is there any other agreement, sir, or any other
6 promise about your plea or your sentence that is not written
7 down in this letter?

8 MR. OKEKE: Your Honor, can you repeat the question
9 one more time for him, please?

10 THE COURT: Absolutely.

11 Mr. Iwobi, is there any other agreement or any other
12 promise about your plea or your sentence that is not contained
13 in this agreement with the government?

14 THE DEFENDANT: No.

15 THE COURT: Sir, has anyone threatened you or forced
16 you to enter into the plea agreement?

17 THE DEFENDANT: No.

18 THE COURT: Other than what is in the agreement has,
19 anyone promised you anything or offered you anything to plead
20 guilty or to enter into the agreement?

21 THE DEFENDANT: No. No, your Honor.

22 THE COURT: Sir, has anyone made a promise to you as
23 to what your sentence will be?

24 THE DEFENDANT: No, your Honor.

25 THE COURT: Now, sir, there is a stipulation in the

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1 agreement concerning the Sentencing Guidelines. It's referred
2 to as the stipulated guidelines range. Do you understand that
3 that stipulation binds you and it binds the government, but it
4 does not bind me, and I'm still going to make my own
5 determination as to what the applicable guidelines range is.
6 Do you understand that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: In addition, there is an agreement in the
9 letter that says that if I sentence you within or below the
10 stipulated guidelines range, you're essentially giving up your
11 right to appeal the sentence that I impose. Do you understand
12 that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Mr. Pertz, would the government please
15 summarize what it would expect to prove if this case were to
16 proceed to trial?

17 MR. PERTZ: Yes, your Honor. The government expects
18 that the evidence at trial would show the following in
19 substance and in part:

20 From approximately 2019 through 2021, Obioma Iwobi,
21 the defendant, participated in a scheme to defraud the United
22 States Department of State by fraudulently receiving annuity
23 payments that were intended for state department retirees. The
24 defendant and his co-conspirators obtained the retirees'
25 personal identifying information, opened straw bank accounts

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1 that the co-conspirators controlled, and contacted the state
2 department to request that the depositing account information
3 for the retirees be changed so that annuity payments would be
4 deposited into these straw accounts.

5 Once the funds were deposited into the straw accounts,
6 the defendant, knowing full well that the funds were
7 fraudulently obtained, then withdrew money from the straw
8 accounts, sending a portion of the funds to his co-conspirators
9 and keeping the rest.

10 The government is also prepared to prove by a
11 preponderance that venue is proper in the Southern District of
12 New York. The government would show through internet protocol
13 logs that the co-conspirators used a virtual private network
14 server based in New York City to communicate with U.S.
15 Government database that held the bank account information for
16 the annuitants, and that that government server was located in
17 the state of Georgia.

18 THE COURT: Thank you, Mr. Pertz.

19 Mr. Iwobi, did you hear what the prosecutor said?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Mr. Iwobi, have you clearly understood
22 everything that has happened today here so far?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Mr. Iwobi, will you please now tell me in
25 your own words what it was that you did that you believe makes

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1 you are guilty of the crime included in the information?

2 THE DEFENDANT: I conspired with these subjects that I
3 would withdraw money to them and send them money overseas.

4 THE COURT: Repeat that.

5 THE DEFENDANT: I'm saying, I conspired with what you
6 said, that I got myself involved with the scam and actually
7 sent money to these guys overseas, yes.

8 THE COURT: And the scheme, as I understand it,
9 involved retirees of the United States State Department; is
10 that correct?

11 THE DEFENDANT: Yes, I ent -- yes. Yes, sir.

12 THE COURT: What was it that you did in connection
13 with that conspiracy, sir?

14 THE DEFENDANT: My connection was have -- having
15 accounts, withdrawing money from their accounts, the fraudulent
16 accounts he mentioned to send the funds to these guys overseas.

17 THE COURT: And so you had some control over the
18 fraudulent accounts?

19 THE DEFENDANT: Correct.

20 THE COURT: And you knew that the money that was going
21 into those accounts were monies that belonged to other people?

22 THE DEFENDANT: Well, I -- yes. Yes.

23 THE COURT: And you withdrew those funds and sent part
24 of it to co-conspirators overseas?

25 THE DEFENDANT: Correct. They contacted -- yes, yes,

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1 sir.

2 THE COURT: When did you do that, sir? Approximately
3 when did you do that?

4 THE DEFENDANT: Pretty much during the pandemic time
5 or from, like he said, 20 -- and in 2019 to 2021.

6 THE COURT: When you did that, Mr. Iwobi, did you know
7 that what you were doing was wrong and against the law?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Did anyone threaten you or force you to do
10 those things?

11 THE DEFENDANT: No, sir.

12 THE COURT: Mr. Pertz, do you want to make a proffer
13 as to venue?

14 MR. PERTZ: Yes, your Honor.

15 As the government stated earlier, the government would
16 proffer venue based on the existence of a virtual private
17 network server based in New York City, which communicated with
18 the government database in the state of Georgia.

19 In addition, while located outside of New York State,
20 the defendant and others used a background check website
21 headquartered in New York City to gather personal information
22 on the victims. And while the defendant may not have known
23 directly the location of the virtual private network server or
24 the background check website server, the location or the use of
25 the server would have been reasonably foreseeable to the

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1 defendant because of the nature of the scheme.

2 THE COURT: What is a background check website? Is
3 that something that is legal?

4 MR. PERTZ: It is. It gathers information that is
5 public or at least publicly available and then others can
6 subscribe to the website and get that information.

7 THE COURT: Very well. Mr. Pertz, does either counsel
8 wish me to make any further inquiries. Mr. Pertz?

9 MR. PERTZ: Nothing from the government. Thank you,
10 your Honor.

11 THE COURT: Mr. Okeke?

12 MR. OKEKE: No. May I just have one minute with my
13 client?

14 THE COURT: Sure.

15 (Defendant and defense counsel consult)

16 MR. OKEKE: We have no objections.

17 THE COURT: I'm sorry, you don't want me to make any
18 further inquiries, Mr. Okeke?

19 MR. OKEKE: No.

20 THE COURT: Mr. Okeke, do you know of any reason why
21 your client should not be permitted to plead guilty?

22 MR. OKEKE: No, your Honor.

23 THE COURT: Sir, do you believe there is an adequate
24 factual basis to support the plea?

25 MR. OKEKE: Yes, your Honor.

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1 THE COURT: Mr. Pertz, is there an adequate factual
2 basis to support the plea of guilty?

3 MR. PERTZ: There is.

4 THE COURT: Mr. Iwobi, how do you now plead to the
5 charge in Count One of the information? Guilty or not guilty.

6 THE DEFENDANT: Guilty.

7 THE COURT: Are you in fact guilty of that charge?

8 THE DEFENDANT: Guilty.

9 THE COURT: Are you pleading guilty voluntarily and of
10 your own free will?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: There is a forfeiture allegation in the
13 information. Do you admit to the forfeiture allegation? Yes
14 or no.

15 THE DEFENDANT: I'm sorry, repeat that again?

16 THE COURT: Yes. There's a forfeiture allegation in
17 the information. Do you admit to the forfeiture allegation?
18 Yes or no.

19 THE DEFENDANT: Yes.

20 THE COURT: I note for the record Exhibit A to the
21 plea agreement is a consent preliminary order of forfeiture
22 money judgment. It has been signed by Mr. Pertz, Mr. Iwobi,
23 Mr. Okeke, and I have myself executed it now. And Exhibit B is
24 a consent order of restitution. Again, it's been signed by
25 Mr. Pertz, Mr. Okeke, Mr. Iwobi, and I myself have executed it

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1 as well.

2 With that, Mr. Iwobi, because you acknowledge that you
3 are in fact guilty as charged in the information, because I
4 find that you know your rights and are waiving them knowingly
5 and voluntarily with an understanding of the consequences of
6 your plea, including the potential sentences that may be
7 imposed, I accept your guilty plea and find you guilty of the
8 charge in the information.

9 I will now direct that a presentence investigation
10 report be conducted by the probation office and that a
11 presentence report be prepared. You will be interviewed by the
12 probation office as part of that process, Mr. Iwobi. You can
13 and should have your lawyer with you during that interview. It
14 is also entirely possible that the probation department will
15 want to interview members of your family with whom you live.

16 The presentence report is a very important part in my
17 decision as to what your sentence will be. You and your
18 attorney will receive a draft of that report. When you receive
19 the draft, please review it very carefully and bring any
20 mistakes or discrepancies that you might find therein to my
21 attention through your attorney. Your attorney and you will
22 also have the right to speak on your behalf before I impose
23 sentence.

24 Do we have a date for sentencing?

25 DEPUTY CLERK: Yes. March 8, 2023 at 3:30 p.m.

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1 THE COURT: Mr. Okeke, if I could impose upon you to
2 coordinate with probation so the interview can take place as
3 promptly as possible. I take it that Mr. Iwobi has not yet
4 gone through the bail process or what is his bail status,
5 Mr. Pertz, and what is the government asking for?

6 MR. PERTZ: As the defendant is making his first
7 appearance today, he has not yet been assigned any conditions.
8 The government agrees with pretrial that bail is appropriate in
9 this case. The government and the defense have not yet reached
10 any agreement as to the amount of the bond, but the government
11 would propose to the Court that bail be set with the conditions
12 that pretrial sets forth in the report. And, in addition, a
13 bond in the amount of \$75,000 be set with one financially
14 responsible party as cosigner. The government would also
15 propose that the defendant be allowed to be discharged on his
16 own signature today with one week given to make the necessary
17 arrangements for the cosigner.

18 THE COURT: Very well. The recommendation from
19 pretrial services is pretrial supervision as directed,
20 surrender all travel documents and make no new applications,
21 travel restricted to the Southern District and Eastern District
22 of New York and to the Eastern District of Texas and points in
23 between for travel to and from court, mental health evaluation
24 and treatment, no new lines of credit or bank accounts without
25 the prior approval of pretrial services, and not to possess any

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1 personal identifying information of others.

2 Mr. Okeke, do you have any objections to those
3 conditions?

4 MR. OKEKE: No, your Honor. And I have defendant's
5 passport to turn in to pretrial services today.

6 THE COURT: Ms. Harrison, anything more that you
7 require?

8 MS. HARRISON: No, your Honor.

9 THE COURT: Very well.

10 Because this is Mr. Iwobi's first time appearing, I
11 also have to comply with Rule 5(f) of the Federal Rules of
12 Criminal Procedure. So, Mr. Pertz, I direct the prosecution to
13 comply with its obligation under *Brady v. Maryland* and its
14 progeny to disclose to the defense all information, whether
15 admissible or not, that is favorable to the defendant, material
16 either to guilt or to punishment and known to the prosecution.

17 Possible consequences for noncompliance may include
18 dismissal of individual charges or the entire case, exclusion
19 of evidence, and professional discipline or court sanctions on
20 the attorneys responsible.

21 I will be entering a written order more fully
22 describing this obligation and the possible consequences of
23 failing to meet it. I direct the prosecution to review and
24 comply with that order.

25 Mr. Pertz, do you confirm that you understand your

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1 obligations and will fulfill them?

2 MR. PERTZ: Yes, your Honor, the government confirms
3 these obligations and will fulfill them.

4 THE COURT: Is there anything else we should do today,
5 Mr. Pertz?

6 MR. PERTZ: Nothing from the government. Thank you
7 very much, your Honor.

8 THE COURT: Mr. Okeke, anything more from you?

9 MR. OKEKE: No, your Honor.

10 THE COURT: In that event, we are adjourned. Here are
11 your original documents. Folks can be at ease. Just waiting
12 for the document to print.

13 (Adjourned)